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Venezuela .....	5 .....	A
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Yemen .....	6 .....	C
Zambia .....	6 .....	D
Zimbabwe .....	6 .....	E

<sup>1</sup> All mail service is currently suspended.  
<sup>2</sup> On Demand service only.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR PART 52**

[GA-34-1-9805; FRL-6318-3]

**Approval and Promulgation of Implementation Plans; Georgia: Approval of Revisions to the Georgia State Implementation Plan**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final conditional interim approval.

**SUMMARY:** EPA is granting final conditional interim approval of the State Implementation Plan (SIP) revision submitted by the State of Georgia through the Georgia Environmental Protection Division (EPD) on November 15, 1993, and amended on June 17, 1996, which included the 15 percent Rate-of-Progress Plan (15 percent plan). EPA is granting final conditional interim approval because achievement of the 15 percent reduction in emission of volatile organic compounds (VOCs) is dependent upon implementation of the enhanced inspection and maintenance (I/M) plan and the condition pertaining to the implementation of a low Reid Vapor Pressure (RVP) program of 7.0 psi. Full approval of Georgia's 15 percent plan will be granted after EPA reviews the State's demonstration that the enhanced I/M program actually achieved the emission reductions claimed as required by the National Highway Act, approves the Georgia enhanced I/M plan, and approves the low RVP program or other program that meets the same emission reduction requirements. In a **Federal Register** notice published on January 29, 1999, (64 FR 4568) EPA granted final interim approval to Georgia's I/M

program. Full approval of the individual measures that comprise the 15 percent plan, except for the low RVP program, is being granted in this action. Additionally, EPA is approving Georgia's 1990 Baseline Emissions Inventory.

**DATES:** This final rule is effective May 26, 1999.

**ADDRESSES:** Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-3104.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

**FOR FURTHER INFORMATION CONTACT:** Scott M. Martin, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-3104. The telephone number is 404-562-9036.

**SUPPLEMENTARY INFORMATION:**

**Clean Air Act Requirements for Serious Nonattainment Areas**

The Atlanta area was classified as a serious ozone nonattainment area on November 6, 1991. The nonattainment area consists of the following thirteen counties: Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnet, Henry, Paulding, and Rockdale.

Section 182(b) of the Clean Air Act (CAA) requires that each state in which all or part of a serious nonattainment area is located submit, by November 15, 1992, an inventory of actual emissions from all sources, as described in section 172(c)(3) and 182(a)(1), in accordance with guidance provided by the Administrator. This inventory is for calendar year 1990 and is designated the baseline year inventory. The inventory must include both anthropogenic and biogenic sources of volatile organic compounds (VOCs), nitrogen oxides (NO<sub>x</sub>), and carbon monoxide (CO), and must address actual emissions of these pollutants in the nonattainment area during the peak ozone season. The inventory must include all point and area sources, as well as all highway and non-highway mobile sources.

In addition, section 182(b)(1)(A) of the CAA requires ozone nonattainment areas classified as moderate and above to develop plans to reduce VOC emissions by 15 percent from the 1990 baseline. The plans were to be submitted by November 15, 1993, and the reductions were required to be achieved within six years of enactment or November 15, 1996. The CAA also set limitations on the creditability of certain types of reductions. Specifically, a state cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures promulgated prior to 1990, or for reductions resulting from requirements to lower the Reid Vapor Pressure (RVP) of gasoline promulgated prior to 1990 or required under section 211(h) of the CAA, which restricts gasoline RVP. Furthermore, the CAA does not allow credit for corrections to vehicle I/M programs or corrections to Reasonably Available Control Technology (RACT) rules as these programs were required prior to 1990.

**Proposed Action on Submittal**

The State of Georgia submitted the 15 percent plan SIP revision for the Atlanta nonattainment area on November 15, 1993, and amended it on June 17, 1996.

On September 12, 1997, EPA published a notice of proposed rulemaking (NPR) in the **Federal Register** proposing conditional interim approval (62 FR 48027). EPA's rationale for granting conditional approval and the details of the November 15, 1993, submittal are contained in the September 12, 1997, NPR and the accompanying technical support document and will not be restated here. EPA received no comments on the NPR. Further information regarding Georgia's I/M program can be found in a **Federal Register** notice published on January 29, 1999 (64 FR 4568).

In the proposed conditional interim approval notice for the 15 percent plan, it was stated that EPA would grant conditional approval of the RVP program. Section 211(c)(4)(C) of the CAA allows nonattainment areas to implement a more stringent RVP standard if the State can satisfy the requirements of this section. The State must demonstrate that the RVP program is necessary to achieve the National Ambient Air Quality Standards. In addition to this requirement, the State must demonstrate that there are no other measures available that are practicable and reasonable, and can be implemented by the needed timeframe. The EPD has committed in a September 29, 1997, letter to submit the necessary documentation that will support the need for a fuel waiver under Section 211(c)(4)(C) of the CAA. For this reason, EPA is granting final conditional interim approval of Georgia's 15 percent plan.

#### Final Action

EPA is granting final conditional interim approval of the State of Georgia's 15 percent plan contingent upon final full approval of the I/M plan and granting of a waiver and approving the RVP program or other plan that provides equivalent emission reductions. The proposed conditional interim approval was published in the **Federal Register** on September 12, 1997 (62 FR 48027) and no comments were received. EPA is approving Georgia's 1990 Baseline Emissions Inventory for the Atlanta nonattainment area as discussed in the NPR which was published on September 12, 1997 (62 FR 48027). The EPA also approves the rule revisions discussed in the NPR which was published on September 12, 1997 (62 FR 48027) to 391-3-1-.01(IIII) "Volatile Organic Compound"; 391-3-1-.01(mmmm) "Hazardous Air Pollutant"; 391-3-1-.02(2)(ii) VOC Emissions from Surface Coating of Miscellaneous Metal Parts and Products; 391-3-1-.02(rr) Gasoline Dispensing

Facility—Stage I; 391-3-1-.02(zz) Gasoline Dispensing Facilities—Stage II; 391-3-1-.02(2)(aaa) Consumer and Commercial Products; 391-3-1-.02(5) Open Burning; 391-3-1-.02(2)(ff) Solvent Metal Cleaning; 391-3-1-.02(7) Prevention of Significant Deterioration; 391-3-1-.03 Permits.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

#### Administrative Requirements

##### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

##### B. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA consults with those governments, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities.

##### C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that

imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

##### D. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

##### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This

final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

G. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

H. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 25, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: March 16, 1999.

Michael V. Peyton,

Acting Regional Administrator, Region 4.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart L—Georgia

2. Section 52.569 is added to read as follows:

§ 52.569 Identification of plan—conditional approval.

EPA is conditionally approving Rule 391-3-1-.02(2)(bbb) Gasoline Marketing-Reid Vapor Pressure (RVP) of the Georgia SIP contingent upon the State submitting documentation supporting the need for a 7.0 psi RVP program within one year of the subject conditional interim approval.

2. Section 52.570, is amended by adding paragraph (c)(41) to read as follows:

§ 52.570 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(41) Revisions to Chapters 391-3-1-.01, 391-3-1-.02, and 391-3-1-.03 of the Georgia Department of Natural Resources Rules for Air Quality Control, adopted on May 29, 1996, October 27, 1993, and August 23, 1995.

(i) Incorporation by reference.

(A) Rules of the Georgia Department of Natural Resources, Environmental Protection Division, Chapter 391-3-1, Air Quality Control, adopted on May 29, 1996:

- (1) 391-3-1-.01(lIII).
(2) 391-3-1-.01(mmmm).
(3) 391-3-1-.02(2)(ff)4.
(4) 391-3-1-.02(2)(ff)5.
(5) 391-3-1-.02(7).
(6) 391-3-1-.03(6).
(7) 391-3-1-.03(6)(b)11.
(8) 391-3-1-.03(6)(b)13.
(9) 391-3-1-.03(6)(c).
(10) 391-3-1-.03(6)(g).
(11) 391-3-1-.03(6)(h).

(B) Rules of the Georgia Department of Natural Resources, Environmental Protection Division, Chapter 391-3-1, Air Quality Control, adopted October 27, 1993:

- (1) 391-3-1-.02(2)(aaa).
(2) 391-3-1-.02(5)(a)3.
(3) 391-3-1-.02(5)(a)13.
(4) 391-3-1-.02(5)(b).

(C) Rules of the Georgia Department of Natural Resources, Environmental Protection Division, Chapter 391-3-1, Air Quality Control, adopted August 23, 1995:

- (1) 391-3-1-.02(2)(ii)6.
(2) 391-3-1-.02(2)(rr)1.
(3) 391-3-1-.02(2)(rr)3(vii).
(4) 391-3-1-.02(2)(rr)6.
(5) 391-3-1-.02(2)(zz)3.
(6) 391-3-1-.02(2)(zz)7.
(7) 391-3-1-.02(2)(zz)8.
(8) 391-3-1-.02(2)(zz)9.
(9) 391-3-1-.02(2)(zz)10.
(10) 391-3-1-.02(2)(zz)11.
(11) 391-3-1-.02(2)(zz)13.
(12) 391-3-1-.02(2)(zz)20.
(13) 391-3-1-.02(2)(aaa)4.
(ii) Other material. None.

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